



Federal Communications Commission
Washington, D.C. 20554
August 15, 2007

In Reply Refer to:
1800B3-LAS/JP

Prince William Broadcasting, LLC
PO Box 123
Millersville, MD 21032-0123

Capital Broadcasting Corporation
Al Hammond, President
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Millersville, MD 21108

Bay Broadcasting, Inc.
Michael Powell, President
1637 Dunn Swamp Road
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Cleo Broadcasting, LLC
Sean Mintz, Managing Member
518 Peoples Street
Corpus Christi, TX 78401

Dale City Broadcasting, LLC
Matthew McCormick, Member
2335 Blaine Drive
Chevy Chase, MD 20815

Lexington Park Broadcasters, Inc.
c/o Charles R. Naftalin, Esq.
Holland & Knight, LLP
2099 Pennsylvania Avenue, NW, Suite 100
Washington, DC 20006-6801

Moonglow Broadcasting, Inc.
Barbara Martin, President
301 W. Main Street
Spindale, NC 28160

Re: **AM Broadcast Auction 84**
MX Group 84-121

Quantico, Virginia
Facility ID No. 160224
File Nos. BNP-20040129AJ0
BNP-20051031ADE

Crisfield, Maryland
Facility ID No. 161416
File No. BNP-20040130AZL

Manassas, Virginia
Facility ID No. 160305
File No. BNP-20040126ANO

Dale City, Virginia
Facility ID No. 160297
File No. BNP-20040128ABP

Forest Heights, Maryland
Facility ID No. 160841
File No. BNP-20040129ASO

Lexington Park, Maryland
Facility ID No. 160833
File No. BNP-20040129ATY

**Applications for New AM Station
Construction Permits**

WGMA(AM), Spindale, North Carolina
Facility ID No. 43713
File No. BMJP-20040130BNS

**Application for Major Change in
Licensed AM Station**

Dear Applicants:

We have before us seven mutually exclusive ("MX") AM construction permit applications. Capital Broadcasting Corporation ("Capital") proposes a new AM station at Quantico, Virginia; Bay Broadcasting, Inc. ("Bay") proposes a new AM station at Crisfield, Maryland; Cleo Broadcasting, LLC ("Cleo") proposes a new AM station at Manassas, Virginia; Dale City Broadcasting, LLC ("Dale") proposes a new AM station at Dale City, Virginia; Lexington Park Broadcasters, Inc. ("Lexington") proposes new AM stations at Forest Heights and Lexington Park, Maryland; and Moonglow Broadcasting, Inc. ("Moonglow") proposes to change the community of license of Station WGMA(AM) from Spindale, North Carolina, to Falls Church, Virginia. These seven applications were designated MX Group 84-121 in AM Auction No. 84. We also have before us a Joint Request for Approval of Settlement Agreement ("Joint Request" or "Settlement Agreement") filed by all parties on October 31, 2005, and a Form 301 long-form application filed by Prince William Broadcasting, LLC ("Prince William") on October 31, 2005.¹ As discussed below, we approve the Settlement Agreement, grant Prince William's Form 301 long-form application and dismiss the remaining applications.

¹ File No. BNP-20051031ADE.

Background / Applicable Law. On June 15, 2005, the Media Bureau released a *Public Notice* containing a list of 802 MX AM Auction No. 84 window-filed Form 301 tech box applications.² The *AM MX Public Notice* defined three categories of MX applications, provided detailed filing requirements for each category, and specified a September 16, 2005, deadline for submitting the required filings to the Commission. This filing deadline was extended to October 31, 2005, because of Hurricane Katrina.³ MX Group 84-121 was listed as a Category I MX group, eligible for settlement. Category I applicants were required to file a settlement agreement, an engineering solution resolving all mutual exclusivities, or a Section 307(b) showing by the filing deadline.

On October 31, 2005, Capital, Bay, Cleo, Dale, Lexington, and Moonglow filed a Settlement Agreement. Under the terms of the Settlement Agreement, the competing parties would merge into a single entity, Prince William, and jointly prosecute an application for a new AM station to operate on 920 kHz at Quantico, Virginia. Each party receives an ownership interest in the merged applicant.⁴ The Settlement Agreement also contemplates that a Form 301 long-form application would be simultaneously filed in the name of Prince William, with facilities similar to those specified in Capital's above-referenced Form 175 application. The remaining Bay, Cleo, Dale, Lexington, and Moonglow applications would be dismissed. The Settlement Agreement contains the affidavits required by Section 73.3525(a) of the Commission's Rules ("Rules").⁵

Discussion. *The Settlement Agreement.* After careful consideration of the Settlement Agreement, and the attached declarations and affidavits, we find that approval of the Settlement Agreement would serve the public interest and expedite the provision of new AM service. The applicants have complied with the requirements of Section 311(c)(3) of the Communications Act of 1934, as amended (the "Act"), and Section 73.3525(a) of the Rules.⁶ We further find that none of the parties filed their respective applications for the purpose of reaching or carrying out the Settlement Agreement⁷ and that no consideration, other than as provided by the Settlement Agreement, has been directly or indirectly paid or promised. Prince William's Form 301 long-form application was accepted for filing and placed on Public Notice on July 31, 2007.⁸

² See *AM Auction No. 84 Mutually Exclusive Applicants Subject to Auction, Settlement Period Announced for Certain Mutually Exclusive Application Groups; September 16, 2005 Deadline Established for Section 307(b) Submissions*, Public Notice, 20 FCC Rcd 10563 (MB 2005) ("AM MX Public Notice").

³ See *Auction No. 84 Settlement Period and Section 307(b) Submission Deadline Extended to October 31, 2005*, Public Notice, 20 FCC Rcd 14492 (MB 2005).

⁴ The parties' respective ownership interests are as follows: Bay 11.33%; Capital 25.5%; Cleo 15%; Dale 25.5%; Lexington 11.33%; and Moonglow 11.33%.

⁵ 47 C.F.R. § 73.3525(a).

⁶ See 47 U.S.C. § 311(c)(3).

⁷ See 47 C.F.R. § 73.3525(a)(2).

⁸ See *Broadcast Applications*, Public Notice, Report No. 26539 (MB July 31, 2007).

Section 307(b) Issues. Republication. The applicants propose to serve different communities. In this regard, the parties have demonstrated that dismissal of the Bay, Cleo, Dale, Lexington, and Moonglow applications would not unduly impede the objectives of Section 307(b) of the Act.⁹ Accordingly, we will not require republication under Section 73.3525(b) of the Rules.¹⁰ Furthermore, we find that Quantico, Virginia is a Census Designated Place, thus it constitutes a community suitable for licensing purposes.¹¹

Conclusion / Action. Accordingly, IT IS ORDERED, that the Joint Request for Approval of Settlement Agreement is GRANTED and the associated Settlement Agreement IS APPROVED. The applications filed by Bay Broadcasting, Inc. (File No. BNP-20040130AZL); Cleo Broadcasting, LLC (File No. BNP-20040126ANO); Dale City Broadcasting, LLC (File No. BNP-20040128ABP); Lexington Park Broadcasters, Inc (File Nos. BNP-20040129ASO and BNP-20040129ATY); and Moonglow Broadcasting, Inc. (File No. BNP-20040130BNS) ARE DISMISSED. The Form 301 long-form application (File No. BNP-20051031ADE) filed by Prince William Broadcasting, LLC IS GRANTED.

Sincerely,



Peter H. Doyle *for*
Chief, Audio Division
Media Bureau

cc: Matthew H. McCormick, Esq.
Barry A. Friedman, Esq.
Peter Gutman, Esq.
Lee J. Peltzman, Esq.
Lauren A. Colby, Esq.

⁹ See Supplemental Section 307(b) Showing to the Prince William Form 301 application, Exhibit 1. The applicants have shown, *inter alia*, that the Prince William proposal will provide Quantico with its first local transmission service under priority (3) of the FM allotment priorities. See *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC2d 88 (1982). Moreover, applicants note, approval of the Settlement Agreement “without requiring republication will facilitate – not unduly impede – the achievement of a ‘fair, efficient and equitable distribution of radio service’” by “avoiding a protracted Section 307(b) dispute amongst the parties and facilitating the prompt initiation of a new service.” Supplemental Section 307(b) Showing at 2. See also *Las Americas Communications, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 2625, 2627 (1992).

¹⁰ 47 C.F.R. § 73.3525(b). See *Mobile Broadcasting Service, Inc.*, Memorandum Opinion and Order, 91 FCC 2d 1209 (1982); *Waterman Broadcasting Corp. of Texas*, Memorandum Opinion and Order, 10 FCC 2d 712 (Rev. Bd. 1967) (rule designed to preclude the artificial removal of a demand, evidenced by the filing of an application, for a local outlet of self-expression by private agreement among the applicants).

¹¹ See *Arnold and Columbia, California*, Memorandum Opinion and Order, 7 FCC Rcd 6302 (MMB 1992).